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 Capital One Bank (erroneously sued
 as Capital One Services, Inc.)

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

DICK NEWMAN, ANN NEWMAN, AND THE
 CLASS OF PERSONS SIMILARLY
 SITUATED,

Plaintiffs,

vs.

CAPITAL ONE SERVICES, INC.; TRANS
 UNION LLC; EQUIFAX, INC.;
 EXPERIAN SERVICES CORP.; BANK OF
 AMERICA CORPORATION; JPMORGAN
 CHASE & CO.; MBNA MARKETING
 SYSTEMS, INC.; DISCOVER FINANCIAL
 SERVICES, INC.; FIRST USA BANK, A
 BANK ONE COMPANY; CAVALRY
 PORTFOLIO SERVICES, LLC; DAVID A.
 BAUER,

Defendants.

No.: C05-05409 JW HRL

The Honorable James Ware

**[PROPOSED] ORDER GRANTING
 DEFENDANT CAPITAL ONE BANK'S
 MOTION TO DISMISS PLAINTIFFS'
 COMPLAINT**

Date: May 18, 2006
 Time: 9:00 a.m.
 Place: Courtroom 8

1 The Court has reviewed Defendant Capital One Bank's ("Capital
2 One") Motion to Dismiss the Complaint filed by Plaintiffs Dick
3 Newman and Ann Newman and all opposition and supporting papers.
4 Good cause appearing therefore, the Court hereby grants Capital
5 One's Motion to Dismiss in its entirety, and dismisses, with
6 prejudice, Plaintiff's first, second, third, fourth, fifth, sixth,
7 and seventh causes of action, respectively, for: (1) libel;
8 (2) breach of contract; (3) fraud; (4) purported violations of the
9 federal Fair Credit Reporting Act; (5) purported violation of the
10 Equal Credit Opportunity Act; (6) purported violation of the
11 California Fair Debt Collection Practices Act; and (7) intentional
12 infliction of emotional distress.

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14 Dated:

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16 The Honorable James Ware
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